



State of Utah

Department of  
Environmental  
Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF SOLID &  
HAZARDOUS WASTE  
Dennis R. Downs  
*Director*

OLENE S. WALKER  
*Governor*

GAYLE F. McKEACHNIE  
*Lieutenant Governor*

August 6, 2004

CERTIFIED MAIL #70022030000710235343  
RETURN RECEIPT REQUESTED

Lyndon Bradshaw  
140 West 390 North  
Hurricane, Utah 84737

Subject: *Proposed Stipulation and Consent Order # 0407020*

Dear Mr. Bradshaw:

In a Letter dated June 1, 2004 you were informed that the disposal of waste from the home of Darren Bradshaw on property owned by you was done in violation of the *Utah Solid Waste Permitting and Management Rules*. The violations at this site led to the issuance of NOTICE OF VIOLATION #0406014 by the Executive Secretary of the Utah Solid and Hazardous Waste Control.

Enclosed is a PROPOSED STIPULATION AND CONSENT ORDER to resolve the NOTICE OF VIOLATION. A penalty of \$480.00 is proposed as part of the resolution of the NOTICE OF VIOLATION. This amount was established using the Utah Solid and Hazardous Waste Control Board Penalty Policy (Utah Administrative Code R315-102). The proposed penalty amount takes into account the violation and its severity, but does not represent the maximum allowable penalty under the statutes.

Under the terms of the PROPOSED STIPULATION AND CONSENT ORDER \$430.00 would be deferred for one year based on compliance with applicable solid waste rules and laws. A payment of \$50.00 is required. If, at the end of one year from the date of this CONSENT ORDER no further violations have occurred and the payment as described has been made, the remainder of the penalty will not be required to be paid.

August 6, 2004

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Please review this document and contact Ralph Bohn to discuss this matter. We would like to receive your response within 30 days. Mr. Bohn can be reached at 801-538-6794.

Sincerely,

**Original Document Signed by Dennis R. Downs on 8/6/04**

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

DRD/rtb/kk

Enclosure: [SCO](#), [SCO Narrative](#)

c: Fred Nelson, Office of the Utah Attorney General  
Gary L. Edwards, M.S., C.H.E.S., Health Director, Southwest Utah Public Health Dept.  
Wayne Thomas, DEQ Southwest District Engineer  
Bradley G. Last, Representative

TN200400772.doc  
File: Darren Bradshaw unpermitted site

# BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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In the matter of:	:	<u>Proposed STIPULATION AND</u>
	:	<u>CONSENT ORDER</u>
Lyndon Bradshaw	:	
140 West 390 North	:	
Hurricane, Utah 84737	:	
	:	
	:	<u>NUMBER 0407020</u>

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the *Utah Solid and Hazardous Waste Act* (the Act). Section 19-6-101, *et seq.*, Utah Code Annotated (UCA) 1953, as amended. The Board has delegated to the Executive Secretary authority to issue such ORDERS in accordance with Subsections 19-6-107(7) and 19-6-112(1) and (2) of the Utah Code Annotated.

## STIPULATIONS

1. Lyndon Bradshaw, Scott Stratton, and Darren Bradshaw are subject to the provisions of the Utah Administrative Code (UAC) R315-301 through 320, titled the *Utah Solid Waste Permitting and Management Rules* and applicable provisions of the *Utah Solid and Hazardous Waste Act*.
2. Darren Bradshaw owned a home located at 182 South 200 West that was demolished and the demolition waste was hauled to, and place on, property located south of 600 North, approximately 500 feet west of the Hurricane City Maintenance Building.
3. Lyndon Bradshaw owns the property located south of 600 North, approximately 500 feet west of the Hurricane City Maintenance Building.
4. The demolition waste was hauled to the above mentioned site by Scott Stratton.
5. On August 4, 2003, the demolition waste on the above mention property was inspected and photographed by a representative of the Division of Solid and Hazardous Waste.
6. In a telephone conversation on August 4, 2003 with the representative of the Division of Solid and Hazardous Waste, Darren Bradshaw stated that the demolition waste had been hauled to the above mentioned site to be burned. The Division representative informed

Mr. Bradshaw that it was illegal to burn demolition waste and that the waste must be removed from the site to a permitted landfill.

7. On August 19, 2003, Lyndon Bradshaw, Scott Stratton, and Darren Bradshaw received a letter, dated August 11, 2003, outlining the options for the legal disposal of the demolition waste and stating that the waste may not be burned. Also, the letter was clear that if the waste was burned, enforcement action would be initiated against the owner of the waste, the transporter of the waste, and the property owner.
8. On September 25, 2003, the Division received a letter from Darren Bradshaw stating that he would remove the waste from the above mentioned site within six months of the date of the letter, September 16, 2003.
9. The above mentioned site was inspected and photographed by representatives of the Division on August 29, 2003 and on March 8, 2004. On the March 8, 2004 inspection it was noted that three smaller piles of tree trimmings had been added to the site.
10. On April 9, 2004, a private citizen and two Hurricane City public works personnel reported to the Division that, on or about March 24, 2004, the demolition waste at the above mention site had been burned. The Hurricane City personnel stated that the fire burned for at least two days.
11. On April 10, 2003, the site was inspected and photographed by a representative of the Division. The site had been scraped clean and from a distance of 75 to 100 feet, the site appeared as if no waste had ever been there with no evidence of a fire. On closer inspection, there was ample evidence of a recent large fire.
12. The waste generated from the demolition of buildings and other structures is a solid waste as defined by UCA 19-6-102(17).
13. Neither Lyndon Bradshaw, Scott Stratton, Darren Bradshaw, nor any other person holds a Solid Waste Permit, issued by the Executive Secretary of the Utah Solid and Hazardous Waste Control Board, to dispose of solid waste on the said Lyndon Bradshaw property.
14. Findings from testimony of a private citizen and Hurricane City public works personnel on April 9, 2004 and subsequently documented during an inspection of the said Lyndon Bradshaw property on April 10, 2004, led to the issuance of a NOTICE OF VIOLATION No. 0406014, dated June 1, 2004, concerning violations of the *Utah Solid and Hazardous Waste Act* and applicable rules by Lyndon Bradshaw, Scott Stratton, and Darren Bradshaw.

15. Lyndon Bradshaw admits the Board has jurisdiction over this matter.
16. Lyndon Bradshaw now desires to resolve this matter fully without resorting to administrative or judicial proceedings.
17. For the purpose of this CONSENT ORDER, Lyndon Bradshaw agrees and stipulates to the above facts. None of the stipulations related herein shall be considered admission by Lyndon Bradshaw, other than Paragraph 15 above, and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER.

### **CONSENT ORDER**

1. In full settlement of the NOTICE OF VIOLATION No. 0406014, Lyndon Bradshaw shall pay a penalty of \$480.00. \$430.00 of this amount is to be deferred for 365 days from the effective date of this CONSENT ORDER. \$50.00 to be paid to the Division of Solid and Hazardous Waste on the first day the month following the effective date of this CONSENT ORDER. If, at the end of 365 days from the effective date of this CONSENT ORDER Lyndon Bradshaw has had no further violations of the Utah Solid and Hazardous Waste Act, UCA 19-6-101 et seq.; the Utah Air Quality Rules, UAC R307; or the Utah Solid Waste Permitting and Management Rules, UAC R315-301 through 320 and the payment as described above has been made, the deferred portion of the penalty will be waived. If the Executive Secretary determines that Lyndon Bradshaw has failed to comply with conditions of this CONSENT ORDER at any time during the 365 days following the effective date of this CONSENT ORDER, the Executive Secretary will notify Lyndon Bradshaw of his finding. If Lyndon Bradshaw does not challenge the Executive Secretary's finding within 30 days as provided in Utah Administrative Code R315-12-2(b), the balance of \$430.00 will be due 30 days after the Executive Secretary's notice. Lyndon Bradshaw may challenge the Executive Secretary's findings by requesting agency action in accordance with R315-12. Should the Executive Secretary's determination be upheld upon administrative review, the \$430.00 will be due 30 days after the final administrative decision on the Request for Agency Action. In addition, Lyndon Bradshaw will be liable for any new violation. The penalty amount has been determined using the Board's Penalty Policy (UAC R315-102) which considers such factors as the magnitude of the violation; degree of harm to human health or the environment or potential for such harm; the economic benefit to the violator; response and investigation costs incurred by the State; good faith efforts by the violator to comply; and other relevant factors.

2. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against Lyndon Bradshaw in the event of future non-compliance with the NOTICE OF VIOLATION; this STIPULATION AND CONSENT ORDER; or with the *Utah Solid and Hazardous Waste Act* or the *Utah Administrative Code*; nor shall the State be precluded in any way from taking appropriate action to abate an imminent endangerment to human health or the environment should such situation arise at the said Lyndon Bradshaw property or the actions of Lyndon Bradshaw in the improper disposal of solid waste. However, compliance with this STIPULATION AND CONSENT ORDER shall relieve Lyndon Bradshaw of all liability for violations specified in NOTICE OF VIOLATION No. 0406014.
3. This CONSENT ORDER shall not in any way relieve Lyndon Bradshaw of any obligation to comply with other applicable local, state, or federal laws or regulations.
4. This CONSENT ORDER shall become effective upon execution by Lyndon Bradshaw and the Executive Secretary of the Board.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

By: \_\_\_\_\_  
Lyndon Bradshaw

By: \_\_\_\_\_  
Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

Company Name: Lyndon Bradshaw  
ID#:

NOV #: 0406014  
NOV Date: 6-1-04

Prepared By: Ralph Bohn  
Date Prepared:

Finding number (from NOV)	3			
Finding Description	Operating an illegal disposal site			
1. Gravity based penalty from the matrix	\$600.00			
(a) Potential for Harm	Minor			
(b) Extent of Deviation	Major			
2. Select an amount from the appropriate multiday matrix cell				
(a) Number of days of violation				
3. Multiply Item 2 by the number of days of violation minus 1 (or other number, as appropriate)	\$0.00	\$0.00	\$0.00	\$0.00
4. Add items 1 and 3	\$600.00	\$0.00	\$0.00	\$0.00
5. Good Faith				
(a) Percent increase				
(b) Percent decrease				
6. Willfulness/negligence				
(a) Percent increase				
(b) Percent decrease	10%			
7. History of compliance/noncompliance				
(a) Percent increase				
(b) Percent decrease	10%			
8. Other unique factors				
(a) Percent increase				
(b) Percent decrease				
9. Total items 5 through 8	-20%	0%	0%	0%
10. Multiply item 4 by item 9	-\$120.00	\$0.00	\$0.00	\$0.00
11. Add items 4 and 10	\$480.00	\$0.00	\$0.00	\$0.00
12. Adjustment for environmental project				
13. Subtract item 12 from item 11	\$480.00	\$0.00	\$0.00	\$0.00
14. Calculate economic benefit				
15. Add items 13 and 14	\$480.00	\$0.00	\$0.00	\$0.00
16. Adjustment amount for ability to pay				
17. Adjustment amount for litigation risk				
18. Add items 16 and 17	\$0.00	\$0.00	\$0.00	\$0.00
19. Subtract item 18 from item 15 for final settlement total	<b>\$480.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

TOTAL THIS PAGE =	\$480	RUNNING TOTAL =	\$480
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